

REMARKS

Claims 1-43 were previously pending in this application. By this amendment, Applicant cancels no claims. Claims 1, 7-9, 11, 12, 17-19, 24, 25, 27-29, 35-39 and 41-43 are amended herein. No new claims are added. As a result claims 1-43 are pending for examination with claims 1, 12 and 25 being independent claims. No new matter is added by this amendment. The application as presented is believed to be in condition for allowance.

Rejection under 35 U.S.C. §112

Claims 1, 25 and 36 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Without acceding to the correctness of this rejection, Applicant herein amends claims 1, 25 and 36 and, as amended, claims 1, 25 and 36 meet the requirements of 35 U.S.C. §112, first paragraph. More particularly, claim 1 has been amended to remove all references to a game session, except for requiring that “the act of providing the AMOE includes an act of providing an entry specifying a date and time of a session of the wagering game.” However, this limitation is supported within the specification as filed, for example, as reflected in the paragraph [0075] of the published application. Claim 25 has been amended in an analogous fashion and, therefore, finds support, for example, in the same passages of the specification as filed as claim 1. Accordingly, withdrawal of the rejection of claims 1 and 25 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claim 36 has been amended to clarify that the player can play the game remotely from a different location as supported in the specification as filed, for example, in paragraphs [0040], [0070], [0099] and [0107]. Consequently, claim 36, as amended, is supported by the specification as filed. Accordingly, withdrawal of the rejection of claim 36 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Rejections Under 35 U.S.C. §103

Claims 1-2, 4-10, 12-14, 16, 18-20, 22-23, 25-31, 33-34 and 36-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fisk, WO00/69535 A1, (hereinafter “Fisk”) in view of U.S. Patent No. 6,767,284 to Koza (hereinafter “Koza”). In response, Applicant has amended claims 1, 12 and 25 and respectfully requests reconsideration in light of the following comments.

Fisk discloses a computer network which manages multiple simultaneous bingo games having a potentially large number of bingo cards and managing the computational burden associated with the multiple simultaneous bingo games (Abstract and page 5, lines 6-19). Fisk also provides the ability of a player to participate in the bingo game by validating a bingo card received from a number of possible sources (Page 8, lines 12-13). Specifically, pre-printed bingo cards are distributed electronically to public locations, in advance of the game, for example through lottery networks to lottery machines, through ATM networks to ATMs, or by printing bingo cards in available spaces on instant lottery game pieces (Page 8, lines 13-16). “A player, having chosen a preferred pre-printed card, can then validate the card to participate in a bingo game by submitting payment for the game, and the identifier of the card (which may be typed or bar-coded onto the pre-printed card) (Page 8, lines 20-22).

Koza is directed toward skill games “that are implemented using network communications” (Abstract). Koza discloses “promotional games” that “give anyone the opportunity to participate in the game merely by making a replica of the entry form or by requesting a free entry form by mail (without purchasing the newspaper or magazine)” (Col. 2, lines 33-37).

Applicant does not accede that the proposed combination of Fisk and Koza is proper and reserves the right to traverse the combination in the future. However, even if one were to combine the references as proposed, the proposed combination fails to render amended claim 1 obvious because the proposed combination does not teach, suggest or disclose that “the act of providing the AMOE includes an act of providing an entry specifying a date and time of a session of the wagering game” as required by amended claim 1. The newspaper supplements and instant win tickets of Fisk make no provision for such an entry. Nor do the cited portions of Koza provide this missing limitation as the cited portions of Koza simply disclose the notion that promotional games give anyone the opportunity to participate in a game by requesting a free entry form. Moreover, the missing claim limitation patentably distinguishes over the proposed combination because the missing claim limitation provides the claimed embodiment with the advantage of affecting the dates and times of AMOE entries (such as, for example, by providing for entries only on dates and times when the gaming system is underutilized by paying players). Therefore, the missing claim limitation is not a mere design consideration. Thus, for at least

these reasons, the proposed combination of Fisk and Koza fails to render amended claim 1 obvious.

Claims 12 and 25, as amended, also require an AMOE including “an entry specifying a date and time of a session of the wagering game.” Therefore claims 12 and 25 are allowable for at least the same reasons discussed above. Dependent claims 2, 4-10, 13-14, 16, 18-20, 22-23, 26-31, 33-34 and 36-43 depend from one of independent claims 1, 12, and 25, and are allowable for at least the same reasons. Accordingly, withdrawal of the rejection of claims 1-2, 4-10, 12-14, 16, 18-20, 22-23, 25-31, 33-34 and 36-43 under 35 U.S.C. §103(a) is respectfully requested.

Claims 3, 15, 21 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fisk in view of Koza. However, as discussed above, the proposed combination of Fisk and Koza fails to disclose, teach or suggest an AMOE including “an entry specifying a date and time of a session of the wagering game” as required by dependent claims 3, 15, 21 and 22 by virtue of their dependency from independent claims 1 and 12. Consequently, the proposed combination fails to render claims 3, 15, 21 and 22 obvious. Accordingly, withdrawal of this rejection of claims 3, 15, 21 and 22 under 35 U.S.C. §103(a) is respectfully requested.

Claims 11, 17, 24 and 35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fisk in view of Koza and in further view of Scott, US 6,102,400 (hereinafter “Scott”). However, as discussed above, the proposed combination of Fisk and Koza fails to disclose, teach or suggest an AMOE including “an entry specifying a date and time of a session of the wagering game” as required by dependent claims 11, 17, 24 and 35 by virtue of their dependency from independent claims 1, 12 and 25. Nothing in the cited portion of Scott cures this infirmity because these passages are focused a “bad beat” feature disclosed in Scott and do not address characteristics of AMOEs. Consequently, the proposed combination fails to render claims 11, 17, 24 and 35 obvious. Accordingly, withdrawal of this rejection of claims 11, 17, 24 and 35 under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. R0586-701110.

Respectfully submitted,

Mark E. Herrmann et al., Applicant

By: /Thomas J. McGinnis/
Thomas J. McGinnis, Reg. No. 58,026
Edward J. Russavage, Reg. No. 43,069
LANDO & ANASTASI, LLP
One Main Street
Cambridge, Massachusetts 02142
Telephone: 617-395-7000
Facsimile: 617-395-7070